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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,350	06/29/2000	Melvin L. Barnes Jr.		7051

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EXAMINER

SMITH, JEFFREY A

ART UNIT PAPER NUMBER

3625

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/606,350

Applicant(s)

BARNES JR. ET AL.

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-23, 25-27, 29, 31, 34, 35, 39-85 and 87-95 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 21-23, 25-27, 29, 31, 34, 35, 39-51, 87, 91 and 92 is/are allowed.
6) ☒ Claim(s) 52-85, 88-90 and 93-95 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 18, 2005 has been entered.

Response to Amendment

The response filed April 18, 2005 has been entered and considered.

Claims 21-23, 25-27, 29, 31, 34, 35, 39-85, 87-95 are pending.

An action on the merits follows.

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Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 52-55, and 88 are rejected under 35 U.S.C. 102(e) as being anticipated by Walsh et al. (U.S. Patent No. 6,144,848).

Walsh et al. discloses (Fig. 4) a handheld wireless communication device (col. 11, lines 34-46) comprising a processor; a user input device; an audible output device; a wireless transmitter; a wireless receiver; an audible input device; and a memory (see col. 23, line 43-col. 23, line 3). An operator may enter command instructions and data for encoding into a command message using a bar code sensor (404), keypad

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(405), and/or microphone (402) (col. 23, lines 61-64; see also col. 12, lines 14-26).

Walsh et al. discloses storing information related to an article of commerce in memory and later entering a command to order the article of commerce, for example (col. 33, lines 48-60).

Walsh et al. further discloses that voice messages may additionally be entered as a recognizable voice component of a digital command message (col. 35, line 54-col. 36, line 4).

Walsh et al. additionally discloses that the processor determines a transmission destination (col. 27, lines 48-55). The Examiner notes that in this example destination information is determined based upon bar code information, however, it is also noted that Walsh et al. discloses that keyboard input, and voice input is also equivalent for the purposes of inputting this type of data.

Walsh et al. discloses information for making a purchase which is retrieved from memory of the device (col. 17, lines 15-36).

Methods for using the handheld device are disclosed.

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Claims 56-85, 89, 90, 93-95 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogasawara (U.S. Patent No. 6,512,919).

Ogasawara (U.S. Patent No. 6,512,919 B2) discloses a method of using a handheld wireless communication device (col. 1, lines 16-21; see embodiment beginning at col. 15, line 43) comprising, *inter alia*, the steps of receiving a plurality of images at an image input device (col. 20, lines 41-67); storing said plurality of images in memory (see references to "captured"); receiving second data representative of an input from a user (col. 21, lines 36-53); wirelessly transmitting said plurality of images to a remote destination (col. 22, lines 52-58); and wirelessly transmitting data based on said second data to the remote destination (col. 19, lines 7-12).

Ogasawara discloses that at least one of said plurality of images comprises text data and further comprising converting said text data to text (col. 22, lines 52-58). The data relates to an article of commerce.

Allowable Subject Matter

Claims 21, 22, 23, 25-27, 29, 31, 34, 35, 39-51, 87, 91, and 92 are allowable over the prior art of record.

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Response to Arguments

Applicant's arguments filed April 18, 2005 have been fully considered but they are not persuasive.

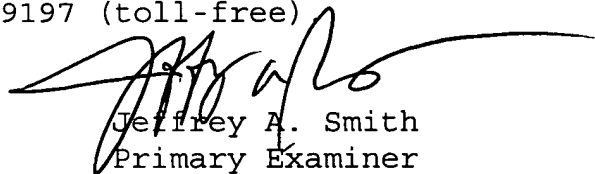
Regarding claim 52: The claim does not recite what structure or in what sense "information corresponding to an article of commerce is "identified". It appears that the amended language of claim 52 still "reads-on" Walsh.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is (571) 272-6763. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)



Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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